



# भारत का राजपत्र

## The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 41] नई दिल्ली, वीरवार, दिसम्बर 10, 1998 / अग्रहायण 19, 1920

No. 41] NEW DELHI, THURSDAY, DECEMBER 10, 1998 / AGRAHAYANA 19, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

### LOK SABHA

The following Bill was introduced in Lok Sabha on 10-12-1998:—

BILL NO. 152 OF 1998

*A Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 1998.

Short title and commencement.

(2) Sections 4, 6, 9 and 11 shall be deemed to have come into force on the 1st day of January, 1996 and the remaining provisions of this Act shall come into force at once.

#### CHAPTER II

##### AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 4, in sub-section (2), in clause (a), in sub-clause (iii), the words "so, however, that such period shall not exceed two hundred and forty days in terms of leave on full allowances" shall be omitted.

Amendment of section 4.

Insertion of  
new section 4A.

3. After section 4 of the High Court Judges Act, the following section shall be inserted, namely:—

Leave  
encashment.

**“4A. A Judge shall be entitled in his entire service, including the period of service rendered in a pensionable post under the Union or State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955.”.**

Amendment of  
section 17A.

4. In section 17A of the High Court Judges Act,—

(a) in sub-section (1),—

(i) for the words “fifty per cent.”, the words “sixty per cent.” shall be substituted;

(ii) for the words “three hundred and seventy-five rupees”, the words “twelve hundred and seventy-five rupees” shall be substituted;

(b) in sub-section (3), in clause (ii),—

(i) for the words “twenty days”, the words “ten days” shall be substituted;

(ii) for the words “each completed year”, the words “each completed six months period” shall be substituted.

Amendment of  
section 22A.

5. In section 22A of the High Court Judges Act, in sub-section (2), for the words “two thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of  
the First  
Schedule.

6. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (a), for the letters and figures “Rs. 4,500”, the letters and figures “Rs. 14,630” shall be substituted;

(B) in clause (b), for the letters and figures “Rs. 3,430”, the letters and figures “Rs. 11,150” shall be substituted;

(C) in the proviso, for the letters and figures “Rs. 54,000” and “Rs. 48,000”, the letters and figures “Rs. 1,80,000” and “Rs. 1,56,000” shall respectively be substituted;

(ii) in paragraph 8, for the letters and figures “Rs. 54,000”, the letters and figures “Rs. 1,80,000” shall be substituted;

(iii) in paragraph 9, for the letters and figures “Rs. 15,750”, the letters and figures “Rs. 51,190” shall be substituted;

(b) in Part II,—

(i) in the proviso to paragraph 2, for the letters and figures “Rs. 54,000” and “Rs. 48,000”, the letters and figures “Rs. 1,80,000” and “Rs. 1,56,000” shall respectively be substituted;

(ii) in paragraph 3, for the figures “3,466”, “4,160”, “4,851”, “5,545”, “6,240” and “6,933”, the figures “11,265”, “13,520”, “15,766”, “18,022”, “20,280” and “22,533” shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b),—

(a) for the letters and figures "Rs. 1,600", the letters and figures "Rs. 5,200" shall be substituted;

(b) the portion beginning with the words "but in no case such additional or special pension" and ending with the words, letters and figures "shall exceed Rs. 8,000 per annum" shall be omitted;

(B) in the proviso, for the letters and figures "Rs. 54,000" and "Rs. 48,000", the letters and figures "Rs. 1,80,000" and "Rs. 1,56,000" shall respectively be substituted.

### CHAPTER III

#### AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

7. In the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), in section 4, in sub-section (2), in clause (a), in sub-clause (iii), the words "so, however, that such period shall not exceed two hundred and forty days in terms of leave on full allowances" shall be omitted.

Amendment of section 4.

8. After section 4 of the Supreme Court Judges Act, the following section shall be inserted, namely:—

Insertion of new section 4A.

"4A. A Judge shall be entitled in his entire service, including the period of service rendered either as a Judge of a High Court or in a pensionable post under the Union or a State or on re-employment, if any, to claim the cash equivalent of leave salary on his retirement in respect of the period of earned leave at his credit, to the extent of the maximum period prescribed for encashment of such leave under the All India Service (Leave) Rules, 1955.".

Leave encashment.

9. In section 16A of the Supreme Court Judges Act,—

Amendment of section 16A.

(a) in sub-section (1),—

(i) in clause (a), for the words "fifty per cent.", the words "sixty per cent." shall be substituted;

(ii) in clause (b), for the words "twenty-five per cent.", the words "thirty per cent." shall be substituted;

(b) in sub-section (2), in clause (ii),—

(i) for the words "twenty days", the words "ten days" shall be substituted;

(ii) for the words "each completed year", the words "each completed six months period" shall be substituted.

10. In section 23 of the Supreme Court Judges Act, in sub-section (1A), for the words "three thousand rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 23.

11. In the Schedule to the Supreme Court Judges Act,—

Amendment of the Schedule.

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 1,235", "Rs. 37,500" and "Rs. 3,150", the letters and figures "Rs. 4,020", "Rs. 1,21,880" and "Rs. 10,240" shall respectively be substituted;

(B) in the proviso, for the letters and figures "Rs. 60,000", the letters and figures "Rs. 1,98,000" shall be substituted;

(ii) in the proviso to paragraph 3, for the letters and figures "Rs. 54,000", the letters and figures "Rs. 1,80,000" shall be substituted;

(iii) in paragraph 5, for the letters and figures "Rs. 19,700", the letters and figures "Rs. 64,030" shall be substituted;

(b) in Part II,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 3,454", the letters and figures "Rs. 11,265" shall be substituted;

(B) in the proviso, for the letters and figures "Rs. 60,000" and "Rs. 54,000", the letters and figures "Rs. 1,98,000" and "Rs. 1,80,000" shall respectively be substituted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b),—

(a) for the letters and figures "Rs. 1,600", the letters and figures "Rs. 5,200" shall be substituted;

(b) the portion beginning with the words "but in no case such additional or special pension" and ending with the words, letters and figures "shall exceed Rs. 8,000 per annum" shall be omitted;

(B) in the proviso, for the letters and figures "Rs. 60,000" and "Rs. 54,000", the letters and figures "Rs. 1,98,000" and "Rs. 1,80,000" shall respectively be substituted.

## STATEMENT OF OBJECTS AND REASONS

When an officer of the State Judicial Service is appointed as a Judge of a High Court, his leave account is regulated under the provision of sub-clause (iii) of clause (a) of sub-section (2) of section 4 of the High Court Judges (Salaries and Conditions of Service) Act, 1954, (hereinafter referred to as the 'High Court Judges Act'). Under the aforesaid provision, a Judge is entitled to carry forward only the leave earned to the extent of two hundred and forty days. He is, however, not entitled to carry forward the half-pay leave in his leave account in the Judicial Service. Representations have been received from certain Judges, requesting for a provision in the High Court Judges Act to enable them to avail the benefit of carry-forward of half-pay leave. In view thereof, it is proposed to make a suitable amendment to the High Court Judges Act to provide for the same. Similarly, the Registry of the Supreme Court has requested for deleting the restrictions of two hundred and forty days for the carry-forward of leave on full allowances when a Judge of High Court is elevated to the Supreme Court. It is proposed to accede to the request and the restriction of two hundred and forty days provided under section 4(2) (a) (iii) of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, (hereinafter referred to as 'Supreme Court Judges Act') is proposed to be done away with.

2. A High Court Judge or a Supreme Court Judge is entitled, without payment of rent, to the use of official residence. Where a Judge does not avail himself of the use of such residence he is paid every month an allowance *i.e.* Rs. 2,500 per month in the case of a Judge of a High Court and Rs. 3,000 per month in the case of a Judge of the Supreme Court. Although there has been steep increase in the market rent of houses, the allowances payable to the Judges in lieu of official residence, has remained static since 1986. This acts as a serious disincentive for Judges to occupy their own houses and accept the facility of House Rent Allowance (HRA). Accordingly, it is proposed to increase HRA to Rs. 10,000 per month in respect of the High Court and Supreme Court Judges.

3. The rates of pension of the Judges of the High Courts and the Supreme Court were last enhanced with effect from the 1st November, 1986 by the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986. The Fifth Central Pay Commission recommended revision in the pensionary benefits of the Central Government employees including the members of All India Services. The revised pension rules have come into force on the 1st day of January, 1996. In view of foregoing, a necessity is felt to increase the pension, additional pension and maximum pension of the Judges of the High Courts and the Supreme Court suitably.

4. It is also proposed to enhance the entitlement of family pension from fifty per cent. to sixty per cent. of the pension admissible to a Judge up to the age of sixty-five years of such Judge had he survived or first seven years after his death, whichever is earlier, and thereafter from twenty-five per cent. to thirty per cent. of his pension subject to minimum of Rs. 1,275 per month.

5. In the case of a Judge who has been elevated from the Bar, the existing provision provides for computation of death-cum-retirement gratuity amounting to 20 days' salary for each completed year of service unlike on half yearly basis applicable to in the case of a Central Government employee. It is now proposed to grant ten days' salary as gratuity for each completed one-half year of service.

6. It is also proposed to remove the ceiling of Rs. 6,000 per annum as special additional pension in compliance with the order dated the 20th January, 1991 of the Supreme Court of India in the matter of Justice M.L. Jain *Vs.* Union of India.

7. The Bill seeks to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954, and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, to achieve the above objectives.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF THE  
CONSTITUTION OF INDIA**

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[Copy of letter No. L-11016/8/97-Jus., dated the 28th November, 1998 from Dr. M. Thambi Durai, Minister of Law, Justice and Company Affairs to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 1998 recommends its introduction under articles 117(1) and 274(1) and consideration under article 117(3) of the Constitution in Lok Sabha.

## FINANCIAL MEMORANDUM

Clauses 2 and 7 of the Bill seek to amend section 4(2) (a) (iii) of the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act) and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, (hereinafter referred to as the Supreme Court Judges Act), respectively so as to remove the ceiling on carry-forward of leave in respect of the Judges of High Court and the Supreme Court. The proposal does not involve any substantial financial implication as there already exists ceiling in respect of aggregate amount of leave which may be availed of by a Judge. Further, clauses 3 and 8 of the Bill seek to insert new section 4A in the High Court Judges Act and the Supreme Court Judges Act, respectively, enabling a Judge of a High Court or Supreme Court to encash the leave available in his leave account at the time of his retirement. Even in that case also, he is allowed encashment of leave on full allowances as well as on half allowances in terms of the provisions of rule 20-A of the All India Service (Leave) Rules, 1955. However, it is not possible to estimate the expenditure at this stage.

2. Clauses 4 and 9 of the Bill seek to amend section 17-A of the High Court Judges Act, and section 16-A of the Supreme Court Judges Act, respectively, so as to increase the family pension from 50 per cent. to 60 per cent. for first seven years of retirement/death or 65 years of age, whichever is earlier and thereafter from 25 per cent. to 30 per cent. of the pension subject to minimum of Rs. 1,275 per month. The proposal does not involve any substantial Financial implications as there are only few family pensioners of the deceased Judges. These clauses of the Bill also seek to amend the said sections so as to grant death-cum-retirement gratuity to the Part-I Judges (those elevated from Bar) at the rate of 10 days salary for each completed six months period of service instead of existing 20 days salary for each completed year of service. The proposal does not involve any substantial Financial implications.

3. Clauses 5 and 10 of the Bill seek to amend section 22-A of the High Court Judges Act, and section 23-A of the Supreme Court Judges Act, respectively to increase House Rent Allowance at the rate of Rs. 10,000 per month to the Judges, who do not avail themselves of rent free official accommodation. The additional expenditure shall be borne mainly by the State Governments. The Central Government will have to meet the additional expenditure in respect of Supreme Court Judges, Delhi High Court and 6 per cent. (Approximately) of Punjab and Haryana High Court. At present, all the Judges of the Supreme Court and Delhi High Court are provided with official residences. Hence, there would be no additional expenditure to be borne by the Central Government. Under section 22D of the High Court Judges Act, and 23D of the Supreme Court Judges Act, the amount of the House Rent Allowance stands exempted from income-tax.

4. Clauses 6 and 11 of the Bill seek to amend the First Schedule to the High Court Judges Act, and the Schedule to the Supreme Court Judges to revise the rates of pension, additional pension and total pension of the Judges with effect from the 1st day of January, 1996. The expenditure in respect of the Judges of the Supreme Court, Delhi High Court and 6 per cent. (approximately) of Punjab and Haryana High Court is charged on the Consolidated Fund of India. The approximate recurring expenditure of the Central Government would be Rs. 37.00 lakhs per annum.

5. The Bill does not involve any other expenditure of either recurring or non-recurring nature.

S. GOPALAN,  
Secretary-General.

